

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MIGUEL ANGEL LUNA,**  
**Plaintiff,**

**VS.**

**LUPE VALDEZ, Dallas County  
Sheriff and DALLAS COUNTY,  
Defendants.**

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**CIVIL ACTION  
NO. 3:15-CV-03520-M**

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**ORIGINAL ANSWER OF DEFENDANTS VALDEZ AND DALLAS COUNTY  
TO PLAINTIFF'S ORIGINAL COMPLAINT**

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TO THE HONORABLE JUDGE OF THE COURT:

COME NOW Defendants Lupe Valdez, Dallas County Sheriff ("the Sheriff"), sued in her official and individual capacity, and Dallas County ("the County") and for their original answer to Plaintiff's original complaint (doc. 1) admit, deny and allege as follows:

**I.**

**GENERAL DENIAL**

Except as herein expressly provided below and except for those allegations which may constitute admissions against the interest of Plaintiff, the Sheriff and the County deny each and every allegation of Plaintiff's original complaint and demand strict proof thereof.

**II.**

**RESPONSIVE PLEADINGS**

**A. Parties**

The Sheriff and the County maintain that the federal government should be joined as a

party to this action given that it was the Immigration and Customs Enforcement agency which placed a detainer on the release of Plaintiff while he was confined in the Dallas County Jail.

**B. Jurisdiction**

No contest.

**C. Venue**

No contest.

**D. Specific Denials**

1. The Sheriff and the County specifically deny that they deprived Plaintiff of any right owed him under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

2. The Sheriff and the County specifically deny that they deprived Plaintiff of any right owed him under the Fourth Amendment to the United States Constitution.

3. The Sheriff and the County specifically deny that they deprived Plaintiff of any right owed him under the Eighth Amendment to the United States Constitution.

4. The Sheriff and the County specifically deny that they deprived Plaintiff of any right owed him under the Thirteenth Amendment to the United States Constitution.

**E. Affirmative Defenses**

**1. Qualified Immunity**

The Sheriff asserts that she is entitled to the defense of qualified immunity as to all the federal claims asserted against her in an individual capacity. She maintains her right to this defense because, at the time of Plaintiff's confinement in the Dallas County Jail, there was no clearly established law that would have notified her that any policies and practices of her Department with regard to Plaintiff's claims herein were violative of the United States

Constitution. And alternatively, not all reasonable officials in her circumstances with regard to the issues in this civil action would have condemned her conduct as violative of the United States Constitution.

**2. Exhaustion of Available Administrative Remedies**

The Sheriff and the County assert that Plaintiff failed to file a grievance, and subsequent appeal of that grievance, in accordance with the Sheriff's policies and as required by the Prison Litigation Reform Act. Plaintiff failed, in whole or in part, to notify the Sheriff of his complaints that his confinement was illegal and violative of the Constitution. His failure to exhaust all available remedies while so confined bars this federal action.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants Sheriff Lupe Valdez and Dallas County pray that this Court dismiss this suit and declare that Plaintiff take nothing by this action, that they recover their costs, including a reasonable attorney's fee expended herein, and that they be awarded any further relief to which they may be justly entitled under the law.

Respectfully submitted,

SUSAN HAWK  
CRIMINAL DISTRICT ATTORNEY

/s/Dolena T. Westergard  
DOLENA T. WESTERGARD  
ASSISTANT DISTRICT ATTORNEY  
TEXAS BAR NO. 21219800  
FEDERAL LITIGATION SECTION  
133 N. RIVERFRONT BLVD., LB 19  
DALLAS, TEXAS 75207-4399  
(214) 653-3692  
(214) 653-2899 (FAX)

FILED AS ATTORNEYS ON BEHALF OF  
DEFENDANTS LUPE VALDEZ AND DALLAS  
COUNTY

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this original answer to Plaintiff's original complaint was served on Plaintiff's counsel by its electronic filing, as is required.

/s/ Dolena T. Westergard  
DOLENA T. WESTERGARD